

made good faith efforts in properly implementing such provisions in the period July 1, 1993 through June 30, 1994.

## **PART 628—PROGRAMS UNDER TITLE II OF THE JOB TRAINING PARTNERSHIP ACT**

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### **Subpart A—Scope and Purpose**

#### **§ 628.100 Scope and purpose of part 628.**

(a) This part sets forth requirements for implementation of programs under title II of the Job Training Partnership Act, and includes the councils described in subpart B that have responsibilities under titles I, II, and III. In this part, the provisions generally pertaining to title II are covered in subparts B, C, D, and E. Matters specific to titles IIA, II-B, or II-C are addressed in subparts F, G, or H, respectively.

(b) Title II-A Adult Training programs are to prepare adults for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased occupational and educational skills, reduced welfare dependency, and result in improved long-term employability.

(c) Title II-B Summer Youth Employment and Training programs are to provide eligible youth with exposure to the world of work, to enhance the basic education skills of youth, to encourage school completion or enrollment in supplemental or alternative school programs and to enhance the citizenship skills of youth.

(d) Title II-C Youth Training programs are to improve the long-term employability of youth; to enhance the educational, occupational and citizenship skills of youth; to encourage school completion or enrollment in alternative school programs; to increase

the employment and earnings of youth; to reduce welfare dependency; and to assist youth in addressing problems that impair their ability to make successful transition from school to work, to apprenticeship, to the military or to postsecondary education and training.

### Subpart B—State Planning

#### § 628.200 Scope and purpose.

This subpart provides requirements for the submission of the Governor's Coordination and Special Services Plan, as well as the procedures for plan review. This subpart also contains requirements for the composition and responsibilities of the State Job Training Coordinating Council and the State Human Resource Investment Council.

#### § 628.205 Governor's coordination and special services plan.

(a)(1) *Submittal*. By a date established by the Secretary, each State seeking financial assistance under the Act shall submit to the Secretary, biennially, the Governor's coordination and special services plan (GCSSP) encompassing two program years (section 121(a)).

(2) The GCSSP shall address the requirements of section 121(b) of the Act, including a description of the Governor's coordination criteria; the measures taken by the State to ensure coordination and prevent duplication with the Job Opportunities and Basic Skills (JOBS) program; the certification of the implementation of the procurement system, as required at section 164(a)(6) of the Act; the technical assistance and training plan; goals, and the efforts to accomplish such goals, for the training and placement of women in nontraditional employment and apprenticeship; the projected use of resources, including oversight of program performance; program administration; program financial management and audit resolution procedures; capacity building; priorities and criteria for State incentive grants; and performance goals for State supported programs (section 121(b)).

(b) *GCSSP review*. The Secretary shall review the GCSSP for overall compliance with the provisions of the Act. If the GCSSP is disapproved, the Sec-

retary shall notify the Governor, in writing, within 45 days of submission of the reasons for disapproval so that the Governor may modify the plan to bring it into compliance with the Act (section 121(d)).

(c) *Information to SDA's*. (1) In the year preceding the program years for which the plan is developed, the State shall make available to the SDA's in the State information on its plans to undertake State activities in program areas including education coordination grants, services to older workers, and capacity building.

(2) The information described in paragraph (c)(1) of this section shall be provided to SDA's in sufficient time for SDA's to take it into consideration in developing local job training plans.

#### § 628.210 State Job Training Coordinating Council.

(a) The Governor shall appoint a State Job Training Coordinating Council (SJTCC) pursuant to section 122 of the Act. In lieu of a SJTCC, the Governor may establish and utilize a State Human Resource Investment Council (HRIC) pursuant to section 701 of the Act and in accordance with § 628.215 of this part.

(b) Consistent with section 122(a)(3) of the Act, the SJTCC shall be composed as follows: 30 percent, business and industry representatives; 30 percent, State and local government and local education agency representatives; 30 percent, organized labor and community-based organization representatives; and 10 percent, representatives from the general public. The SJTCC shall have the specific functions and responsibilities outlined in sections 122, 317, and 501 of the Act.

(c) Funding for the SJTCC shall be provided pursuant to sections 202(c)(1)(A) and 262(c)(1)(A) of the Act.

(d) The SJTCC shall:

(1) Analyze the SDAs' reports made pursuant to section 104(b)(13) of the Act and make recommendations for technical assistance and corrective action, and

(2) Prepare a summary of such reports and disseminate them to SDA's and service providers in the State and to the Secretary (section 122(a)(5) and (6)).

**§ 628.215 State Human Resource Investment Council.**

(a) *Establishment and responsibilities.* The State may, in accordance with sections 701, 702, and 703 of the Act, establish a State Human Resource Investment Council (HRIC). The HRIC's responsibilities are described at section 701(a) of the Act. The HRIC shall carry out the following responsibilities:

(1) Review the provision of services and the use of funds and resources under applicable Federal human resource programs and advise the Governor on methods of coordinating such provision of services and use of funds and resources consistent with the laws and regulations governing such programs;

(2) Advise the Governor on the development and implementation of State and local standards and measures relating to applicable Federal human resource programs and coordination of such standards and measures; and

(3) Carry out the duties and functions prescribed for existing State councils described under the laws relating to the applicable Federal human resource programs, including the responsibilities of the State Council on Vocational Education (SCOVE) under Section 112 of the Carl D. Perkins Vocational and Applied Technology Education Act.

(4) Perform other functions as specified by the Governor (section 701).

(b) *Applicable Programs.* For the purposes of this section, the programs included are those listed at section 701(b)(2) of the Act. A program shall be included only if the Governor and the head of the State agency responsible for the administration of the program jointly agree to include such program. In addition, programs under the Carl Perkins Vocational and Applied Technology Act shall require the agreement of the State council on vocational education (section 701(b)(1)(B)).

(c) *Composition.* (1) The Governor shall establish procedures to ensure appropriate representation on the HRIC from among the categories of representation specified in section 702 of the Act.

(2) In addition, when the functions and responsibilities of the SCOVE are included on the HRIC, the Governor is

encouraged to consider appointing the State Director for Vocational Education as a representative on the HRIC.

(d) *Funding.* (1) Funding to carry out the functions of the HRIC shall be available pursuant to section 703(a) of the Act.

(i) The costs associated with the operation of the HRIC should be allocated among the various funding sources based on the relationship of each funding source or program to total spending of all applicable funding sources and programs (section 703(d)).

(ii) Costs of the HRIC that are in excess of costs paid by funds from participating State agencies are, subject to the availability of funds from applicable JTPA sources, allowable JTPA costs (section 703(a) and (d)).

(2) A HRIC which meets the requirements of title VII and includes each of the programs listed at section 701(b)(2)(A) of the Act shall be authorized to use JTPA State Education Coordination and Grants funds (section 123(a)(2)(D)(ii)).

(e) *Replacement of other councils.* A HRIC meeting the requirements of title VII of the Act shall replace the councils of the participating programs listed at section 701(b)(2)(A) of the Act.

(f) *Expertise.* The Governor shall ensure that in the composition of the HRIC and the staff of the HRIC there exists the proper expertise to carry out the functions of the HRIC and the council(s) it replaces (sections 702(c)(2) and 703(b)).

(g) *Certification.* Each State, as part of the certification process to the Secretary, shall ensure that the council meets the requirements of sections 701, 702, and 703. This certification shall be made in writing and submitted to the Secretary, with a copy provided to the Secretary of Education, at least 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under the Act.

**Subpart C—State Programs**

**§ 628.300 Scope and purpose.**

This subpart provides requirements for the State-operated programs including the education coordination and grants, services to older workers, and

incentive grants to SDA's and grants to SDA's for capacity building and technical assistance.

**§ 628.305 State distribution of funds.**

(a) The funds made available to the Governor under sections 202(c) and 262(c) of the Act shall be used to carry out activities and services under this subpart.

**§ 628.310 Administration.**

Funds provided to the Governor under sections 202(c)(1)(A) and 262(c)(1)(A) of the Act may be used for overall administration, management, oversight of program performance; technical assistance to SDA's failing to meet performance standards, as described in section 106(j)(1) of the Act; auditing; and activities under sections 121 and 122 of the Act.

**§ 628.315 Education coordination and grants.**

(a) *Governor's responsibilities.* The Governor shall allocate funds available pursuant to sections 202(c)(1)(C) and 262(c)(1)(C) of the Act to any State education agency. For the purposes of this section, "State education agency" shall not include the State agency which administers the JTPA program within the State or other agencies which do not have education as a primary and operational function, such as correctional agencies, although this limitation shall not preclude such an agency from being an ultimate sub-recipient of funds (section 123(a)(1)).

(b) *Agreements.* (1) The State education agency to be allocated funds under section 123(a)(1) of the Act shall participate in joint planning activities with the Governor in order to develop a plan which shall be submitted in the GCSSP (section 123(c)).

(2) The Governor and the State education agency shall jointly agree on the plan required in paragraph (b)(1) of this section, which shall include a description of the agreements described in paragraph (b)(3) of this section (section 123(c)).

(3) Projects to undertake the activities set forth in section 123(a)(2) shall be conducted in accordance with agreements between the State education agency(ies) and administrative entities

in service delivery areas in the State. The agreements may include other entities such as State agencies, local education agencies and alternative service providers (section 123(b)(1)(B)).

(4)(i) When there is a failure by the State education agency and the Governor to develop the joint plan described in paragraph (b)(2) of this section, the Governor shall not allocate funds under section 123(a)(1) to such education agency nor shall such funds be available for expenditure by the Governor (section 123(c)).

(ii) When no State education agency accepts the allocation of funds under section 123(a)(1), or when there is a failure to reach the agreement(s) specified in paragraph (b)(3) of this section, the funds may only be used by the Governor pursuant to section 123(e) and in accordance with the GCSSP (section 123(e)).

(c) *Allowable activities.* (1) Funds made available for education coordination and grants under section 123 of the Act shall be used to pay the Federal share of education coordination and grants projects (section 123(a)(2)).

(2) Projects, as defined at section 123(a)(2)(A), (B), and (C) of the Act shall be conducted for eligible individuals and should include those which:

(i) Provide school-to-work services of demonstrated effectiveness, including youth apprenticeship programs;

(ii) Provide literacy and lifelong learning opportunities and services of demonstrated effectiveness, including basic education and occupational skills training; and

(iii) Provide statewide coordinated approaches to education and training services, including model programs, designed to train, place, and retain women in nontraditional employment (section 123(a)).

(3) Projects for coordination of education and training may also be conducted which may include support activities pertaining to the HRIC which meets the requirements of title VII.

(d) *Expenditure requirements.* (1)(i) At least 80 percent of the funds allocated under section 202(c)(1)(C) and section 262(c)(1)(C) of the Act shall be expended to pay for the Federal share of projects described in paragraph (c)(2) of this section (section 123(d)(2)(B)).

(ii) The Governor shall assure that not less than 75 percent of the funds expended for such projects are expended for projects for eligible economically disadvantaged participants who experience barriers to employment. For purposes of meeting this requirement, participants meeting the conditions of section 263(a)(2)(B) and (C) and (g) of the Act may be considered economically disadvantaged (section 123(d)(2)(C)).

(iii) Priority for funds not expended for the economically disadvantaged shall be given to title III participants and persons with barriers to employment.

(iv) The Governor may assure compliance with the requirement to serve participants with barriers to employment by targeting projects to particular barrier groups (*e.g.*, school dropouts).

(2) Not more than 20 percent of funds allocated under section 202(c)(1)(C) of the Act may be expended to:

(i) Facilitate coordination of education and training services for participants in the projects described in section 123(a)(2)(A), (B) and (C), or

(ii)(A) Support activities pertaining to a HRIC that meets the requirements of § 628.215 of this part, or

(B) Support activities pertaining to a State council which carries out functions similar to those of a HRIC if such council was established prior to July 1, 1992.

(e) *Contribution.* (1) Except as provided in paragraph (e)(3) of this section, the State shall provide for the contribution of funds, other than the funds made available under this Act, of a total amount equal to the amounts allotted under Section 123;

(2) The Governor shall define and assure the provision of adequate resources by the State to meet the requirements of paragraph (e)(1) of this section. Such amount may include the direct cost of employment and training services provided by other Federal programs or agencies if such use for matching is in accordance with the applicable Federal law governing the use of such funds.

(3) When there is a failure to reach agreement between the State education agency and the administrative

entity in the service delivery area, as set forth in paragraph (b)(3) of this section, the requirement for the contribution of funds shall not apply.

(f) Eligible youth, age 14 through 15, may be served in the program under this section to the extent set forth in the agreements under paragraph (b)(3) of this section.

**§ 628.320 Services for older individuals.**

(a) *Consultation.* (1) The Governor shall consult with the appropriate PIC's and chief elected official(s) prior to entering into agreements to provide services under section 204(d) and to assure that services provided to participants under section 204(d) are consistent with the programs and activities provided in the SDA to eligible older participants.

(2) The GCSSP shall specify the process for accomplishing the consultation required by paragraph (a)(2) of this section.

(b) Funds available under section 204(d) shall be used by the Governor to provide services on an equitable basis throughout the State, taking into account the relative share of the population of eligible older individuals residing in each SDA and the participation of such older individuals in the labor force.

(c) *Delivery of services.* (1) Services to participants eligible under section 204(d) shall be delivered through agreements with SDA's, private industry councils, public agencies, private non-profit organizations (including veterans organizations) and private-for-profit organizations.

(2) Priority for delivery of services under this section shall be given to agencies and organizations which have a demonstrated effectiveness in providing training and employment services to such older individuals.

(d) *Eligibility.* (1) Individuals provided services under section 204(d) of the Act shall be economically disadvantaged, based on criteria applicable in the SDA in which they reside, and shall be age 55 or older. However, each program year not more than 10 percent of participants enrolled under section 204(d)

may be individuals who are not economically disadvantaged but have serious barriers to employment as identified by the Governor and have been determined within the last 12 months to meet the income eligibility requirements for title V of the Older Americans Act of 1965 (section 204(d)(5)(B)(i)).

(2) The following criteria shall apply to joint programs for older workers.

(i) In order to carry out a joint program with operators of programs under title V of the Older Americans Act, there shall be a written financial or non-financial agreement, or written joint program description when the entity which operates the JTPA and title V program are the same.

(ii) Joint programs under this paragraph (d)(2) may include referrals between programs, co-enrollment and provision of services.

(iii) Under agreements pursuant to this paragraph (d)(2), individuals eligible under title V of the Older Americans Act shall be deemed to satisfy the requirements of section 203(a)(2) of the Act (Older Americans Act, Pub. L. 103-171, section 510).

(e) *Applicable requirements.* Except as provided in the Act, the provisions of title II-A shall apply to programs conducted under section 204(d) (section 204(d)(6)).

(f) The Governor shall make efforts to coordinate the delivery of services under section 204(d) with the delivery of services under title V of the Older Americans Act of 1965. Such coordination may include coenrollment, coordination of a continuum of services between this section and title V of the Older Americans Act and other appropriate linkages.

(g) The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills (section 204(d)(3)).

**§ 628.325 Incentive grants, capacity building, and technical assistance.**

(a) Funds available to the Governor under sections 202(c)(1)(B) and 262(c)(1)(B) of the Act shall be used to provide incentive grants to SDA's and for capacity building and technical assistance.

(b) *Incentive grants.* (1) Not less than 67 percent of the funds available under sections 202(c)(1)(B) and 262(c)(1)(B) of the Act shall be used by the Governor to provide incentive grants for programs, except programs under section 204(d) of the Act, exceeding title II performance standards (section 106(b)(7)).

(2) Incentive grant funds under this section shall be distributed by the Governor among SDA's within the State pursuant to section 106(b)(7) of the Act.

(3) The Governor shall, as part of the annual statement of goals and objectives required by section 121(a)(1) of the Act, provide SDA's with the specific policies and procedures to implement section 106(b)(7) of the Act.

(4) In a State which is the service delivery area, incentive grant funds shall be distributed in a manner determined by the Governor and described in the GCSSP. The Governor shall give consideration to recognizing the performance of service providers within the State.

(5) SDA's should use incentive grant funds for capacity building and technical assistance activities and/or for the conduct of allowable Title II activities for eligible youth, eligible adults, or both, at the discretion of the SDA.

(c) *Capacity building and technical assistance.* (1) Up to 33 percent of the funds available under sections 202(c)(1)(B) and 262(c)(1)(B) of the Act may be used by the Governor to provide capacity building and technical assistance efforts aimed at improving the competencies of the personnel who staff and administer JTPA including SDA's, service providers, State staff, private industry councils, other job training councils and related human service systems provided for in section 205(a) of the Act.

(2) In providing capacity building and technical assistance activities, the Governor shall:

(i) Consult with SDA's concerning capacity building and technical assistance activities consistent with the process specified in the GCSSP;

(ii) Ensure that the use of funds will assist front line staff providing services to participants by directing resources to SDA and service provider staff for capacity building efforts, building a statewide capacity building strategy

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based on an assessment of local capacity building needs developed in cooperation with the SDA's, and/or delivering training and technical assistance directly to the local level;

(iii) Ensure that expenditures for the purchase of hardware/software are only for the development of Statewide communications and training mechanisms involving computer-based communication technologies that directly facilitate interaction with the National Capacity Building and Information Dissemination Network (National Network) described in section 453 of the Act and that facilitate the use of computer-based training techniques in capacity building and technical assistance activities;

(iv) Ensure that State and local capacity building efforts are coordinated and integrated with the National Network, pursuant to sections 202(c)(3)(B) and 262(c)(3)(B) of the Act, and that materials developed with funds under this section are made available to be shared with other States, SDA's and the National Network. States and SDA's retain the flexibility to tailor Network products to their own needs and/or to produce and train on similar or related products when local circumstances so dictate and;

(v) Provide technical assistance to service delivery areas failing to meet performance standards pursuant to section 106(j)(2) of the Act.

(d) *Cost sharing.* (1) Cost sharing approaches are encouraged among States, SDA's and/or among other Federal, State, and local human service programs, including those listed in section 205(a) of the Act, in developing electronic communications, training mechanisms and/or contributing to the National Network.

(2) All shared costs shall be allocated among the contributing funding sources on the basis of benefits received.

### Subpart D—Local Service Delivery System

#### § 628.400 Scope and purpose.

This subpart sets forth requirements for the selection of service delivery areas, the establishment and responsibilities of the private industry coun-

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cil, and the selection of the SDA grant recipient and administrative entity. This subpart also contains the requirements for the local job training plan as well as the procedures for its review and approval by the State.

#### § 628.405 Service delivery areas.

(a)(1) The Governor, after receiving recommendations from the SJTCC, shall designate SDA's within the State in accordance with the provisions of section 101 of the Act.

(2) SDA's may not be designated by the Governor more frequently than once every two years, and such designations shall be made to coincide with the two-year plan cycle for the GCSSP and local job training plans (*i.e.*, the designation cannot be made for an off-year in this cycle).

(3) Each request for designation as an SDA shall be submitted in a form and by a date established by the Governor. The procedures established by the Governor shall provide for the treatment of existing SDA's for the purposes of submitting SDA designation requests.

(b)(1) The Governor shall approve SDA designation requests from entities with a population of 200,000 or more that satisfy the criteria specified in section 101(a)(4)(A) of the Act.

(2) When there are competing applications under paragraph (b)(1) of this section for the same geographic area, the Governor shall designate the entity with the population closest to 200,000, if the remaining reduced area also continues to satisfy the criteria specified in section 101(a)(4)(A) of the Act. The Governor shall offer to designate the remaining reduced area as an SDA as well.

(3) When there are competing applications under paragraph (b)(1) of this section for the same geographic area and the designation of the entity with the population closest to 200,000 would have the effect of reducing the population of the competing entity to below a population of 200,000, the Governor has the discretion to determine which request to honor.

(d) The Governor may, in accordance with section 101(a)(4)(B) of the Act, approve a request to be a SDA from any unit, or contiguous units, of general local government, without regard to

population, which serves a substantial portion of a labor market area. In making such designations, the Governor shall evaluate the degree to which a proposed service delivery area meets criteria established by the Governor which, at a minimum, shall include:

(1) The capability to effectively deliver job training services;

(2) The capacity to administer the job training program in accordance with the Act, applicable rules and regulations and State standards; and

(3) The portion of a labor market to be served.

(e) For the purposes of SDA designations under section 101(a)(4)(A) and (B) of the Act, the term “substantial part” and “substantial portion” of a labor market area shall be defined by the Governor, but shall not be less than 10% of the population of a labor market area.

(f) All areas within the State shall be covered by designated SDA’s. After honoring all requests for designation from eligible entities under section 101(a)(4)(A) of the Act, and making any qualified discretionary designations under section 101(a)(4)(B) of the Act, the Governor shall include uncovered areas in the State within other designated SDA’s willing to accept them or within a State administered SDA.

(g) *Appeals.* (1) Only an entity which meets the requirements of section 101(a)(4)(A) of the Act for designation as a service delivery area, but which has had its request to be an SDA denied, may appeal the Governor’s denial of service delivery area designation to the Secretary of Labor.

(2) Appeals made pursuant to paragraph (g)(1) of this section shall be submitted by certified mail, return receipt requested, to the Secretary, U.S. Department of Labor, Washington, DC 20210, Attention: ASET. A copy of the appeal shall simultaneously be provided to the Governor.

(3) The Secretary shall not accept an appeal dated later than 30 days after receipt of written notification of the denial from the Governor.

(4) The appealing party shall explain why it believes the denial is contrary to the provisions of section 101 of the Act.

(5) The Secretary shall accept the appeal and make a decision only with regard to whether or not the denial is inconsistent with section 101 of the Act. The Secretary may consider any comments submitted by the Governor. The Secretary shall make a final decision within 30 days after receipt of the appeal (section 101(a)(4)(C)).

(6) The Secretary shall notify the Governor and the appellant in writing of the Secretary’s decision.

**§ 628.410 Private Industry Council.**

(a) *Certification of the PIC.* (1) The chief elected official(s) of the SDA shall establish and the Governor shall certify the private industry council (PIC) pursuant to section 102 of the Act.

(2) The Governor shall review the certification of the PIC biennially, one year prior to the effective date of the 2-year SDA job training plan to the Governor. The Governor’s review shall include:

(i) The PIC composition, which shall be consistent with section 102(a), (b), (c), and (d) of the Act and shall include the names of individuals nominated and their qualifications;

(ii) The nomination process;

(iii) The written agreement(s) among the appropriate chief elected official(s) and the PIC, including procedures for the development of the SDA job training plan and the selection of the grant recipient and administrative entity.

(3) The chief elected official shall select labor representatives for the PIC from individuals recommended by recognized State and local labor federations. For purposes of this section, a labor federation is an alliance of two or more organized labor unions for the purpose of mutual support and action. An example of a recognized labor federation is the AFL–CIO.

(b) *Responsibilities of the PIC.* Pursuant to section 103 of the Act, the PIC shall:

(1) Provide policy and program guidance for all activities under the job training plan for the SDA;

(2) In accordance with agreements negotiated with the appropriate chief



elected official(s), determine the procedures for development of the job training plan and select the grant recipient and administrative entity for the SDA;

(3) *Independent oversight.* As specified in subpart D of part 627 of this chapter, the PIC shall exercise independent oversight over programs and activities under the job training plan, which oversight shall not be circumscribed by agreements with the appropriate chief elected official(s) of the SDA;

(4) Be a party to the designation of substate grantees under title III, as set forth in § 631.35 of this chapter;

(5) Establish guidelines for the level of skills to be provided in occupational skills training programs funded by the administrative entity;

(6) Consult with the Governor on agreements to provide services for older individuals under section 204(d) of the Act;

(7) Establish youth and adult competency levels consistent with performance standards established by the Secretary, based on such factors as entry level skills and other hiring requirements, in consultation with educational agencies and, where appropriate, with representatives of business, organized labor and community-based organizations pursuant to section 106(b)(5) and 107(d); and

(8) Identify occupations for which there is a demand in the area served.

(c) *Substate plan.* The PIC shall be provided the opportunity to review and comment on a substate grantee plan under title III of the Act prior to the submission of such plan to the Governor (section 313(a)).

(d) [Reserved]

(e) The State Employment Service agency shall develop jointly with each appropriate PIC and chief elected official(s) for the SDA those components of the plans required under the Wagner-Peyser Act which are applicable to the SDA. (See part 652 of this chapter).

(f) *Single SDA States.* (1) In any case in which the service delivery area is a State, the SJTCC or a portion of the SJTCC may be reconstituted as a PIC if the PIC meets the requirements of section 102(a) of the Act.

(2) When the service delivery area is a State and the functions of the SJTCC are embodied in the HRIC, the HRIC or

a portion of the HRIC may be reconstituted as a PIC if the requirements for private sector business representation at section 102(a)(1) of the Act are met (section 102(h)).

**§ 628.415 Selection of SDA grant recipient and administrative entity.**

(a) *Selection of SDA grant recipient.* (1) The SDA grant recipient and the entity to administer the SDA's job training plan for title II, developed pursuant to section 104 of the Act, shall be selected by agreement of the PIC and chief elected official(s) of the SDA. These may be the same or different entities.

(2) The specific functions and responsibilities of the entities described in paragraph (a)(1) of this section shall be spelled out in the agreement between the PIC and the chief elected official(s), and shall specifically address the provisions of section 141(i) of the Act (section 103(b)(1)).

(b) *Subrecipient requirements.* (1) The Governor may establish requirements pertaining to subrecipient, including SDA grant recipient, responsibility for JTPA funds.

(2) The requirements of paragraph (b)(1) of this section shall not preclude the selection of any entity identified in section 103(b) of the Act as SDA grant recipient.

**§ 628.420 Job training plan.**

(a) The Governor shall issue instructions and schedules to assure that job training plans and plan modifications for SDA's within the State conform to all requirements of the Act.

(b) The Governor's instructions for development of the SDA's job training plan shall require that the plan contain the following information:

(1) A complete and detailed discussion of the elements found in section 104(b) of the Act, including goals for the training and training related placement of women in nontraditional employment and apprenticeships;

(2) A discussion of the SDA's compliance with the Secretary's program goals, as outlined in the planning guidance provided to the Governor; and

(3) An oversight plan for the SDA which includes: (i) A description of the oversight activities of the PIC and the chief elected official(s), and (ii) the

SDA administrative entity's monitoring plan which includes the Governor's monitoring requirements for service providers.

(c) The Governor may also require that the SDA job training plan contain a capacity building and technical assistance strategy that includes plans for designating capacity building as a staff function, assessing local capacity building needs, and developing and participating in computerized communication mechanisms.

(d) The SDA job training plan shall be jointly approved and jointly submitted to the Governor by the PIC and the chief elected official(s) (section 103(d)).

(e) *Modifications.* (1) Any major modification to the SDA job training plan shall be jointly approved and jointly submitted by the PIC and chief elected official(s) of the SDA to the Governor for approval.

(2) For the purposes of this section, the circumstances which constitute a "major" modification shall be specified by the Governor.

#### § 628.425 Review and approval.

(a) *Standards and procedures.* The Governor shall establish standards and procedures for the review and approval or disapproval of the SDA job training plan and plan modifications that shall be provided to the SDA's at the same time as the instructions and schedules for preparation of the plans are provided.

(b) *Plan approval.* Except when the Governor makes a finding under the provisions of section 105(b)(1) of the Act, the Governor shall approve the SDA job training plan or plan modification. The notice of approval shall be provided in writing to the chief elected official(s) and to the private industry council.

#### § 628.426 Disapproval or revocation of the plan.

(a) If the Governor disapproves the SDA job training plan or plan modification for any reason, the Governor shall notify the PIC and chief elected official(s) for the SDA in writing as provided in section 105(b)(2) of the Act.

(b) If the Governor disapproves the SDA job training plan or plan modification,

the Governor shall provide the PIC and the chief elected official(s) for the SDA 30 days to correct the deficiencies and resubmit the plan or plan modification. Within 15 days after the plan or plan modification is resubmitted, the Governor shall make a final decision and shall notify the PIC and the appropriate chief elected official(s) of the SDA in writing of the final disapproval or approval.

(c) *Governor mediation.* If the PIC and the appropriate chief elected official(s) of an SDA are unable to reach an agreement under the provisions of section 103 (b)(1) or (d) of the Act, any such party may request the Governor to mediate.

(d) *Failure to reach agreement.* If the PIC and the chief elected official(s) fail to reach the required agreements in section 103 (b)(1) or (d) of the Act, funds may not be made available to an SDA under section 104 of the Act and the Governor shall merge the affected area into one or more other existing service delivery areas (section 105(c)(1)).

(e) *Appeals.* (1) In accordance with section 105(b)(2) of the Act, any final disapproval by the Governor of the SDA job training plan or modification may be appealed by the PIC and chief elected official(s) of the SDA to the Secretary.

(2) The Secretary shall not accept an appeal dated later than 30 days after receipt by the PIC and chief elected official(s) of the final disapproval of the SDA job training plan or modification from the Governor.

(3) The Secretary shall accept an appeal under paragraph (e)(1) of this section and shall determine only whether the disapproval is clearly erroneous under section 105(b)(1) of the Act. The Secretary may consider any comments submitted by the Governor. In accordance with section 105(b)(2) of the Act, the Secretary shall make a final decision within 45 days after the appeal is received by the Secretary.

(4) The Secretary shall notify the Governor and the appellant in writing of the Secretary's decision.

(f) *Appeals of plan revocations.* Pursuant to section 164(b)(1) of the Act, a notice of intent to revoke approval of all or part of a plan may be appealed to the Secretary. Such appeals shall be

treated as a disapproval under paragraphs (c) and (e) of this section, except that the revocation shall not become effective until the later of:

(1) The time for appeal under paragraph (e) of this section has expired; or

(2) The date on which the Secretary issues a decision affirming the revocation.

(g) In the event that a plan is disapproved and the Governor's decision is upheld upon appeal, the Governor shall merge the affected area into other designated SDA's willing to accept it or include it in another SDA within the State.

**§ 628.430 State SDA Submission.**

(a) Pursuant to section 105(d) of the Act, when the SDA is the State, the Governor shall submit to the Secretary, not less than 60 days before the beginning of the first of the two program years covered by the job training plan and in accordance with instructions issued by the Secretary, an SDA job training plan covering two program years. When the SDA is the State, modifications to the plan shall be submitted to the Secretary for approval.

(b) When a State submits an SDA job training plan or plan modification pursuant to paragraph (a) of this section, the Secretary shall review the plan or plan modification for overall compliance with the provisions of the Act. The State's plan shall be considered approved unless, within 45 days of receipt of the submission described in paragraph (a) of this section, the Secretary notifies the Governor in writing of inconsistencies between the submission and requirements of specific provisions of the Act. If the plan or plan modification is disapproved, the Governor may appeal the decision by requesting a hearing before an administrative law judge pursuant to subpart H of part 627 of this chapter.

**Subpart E—Program Design Requirements for Programs Under Title II of the Job Training Partnership Act**

**§ 628.500 Scope and purpose.**

This subpart contains the regulations pertaining to the program design re-

quirements common to all programs conducted under titles I (i.e., sections 121 and 123) and II of the Act. Regulations specifically pertaining to the Adult Program can be found in subpart F of this part. Regulations pertaining to the Summer Youth Employment and Training Program can be found in subpart G of this part. Regulations pertaining to the Youth Training Program can be found in subpart H of this part.

**§ 628.505 Eligibility.**

(a) *Eligibility criteria.* (1) Individuals who apply to participate in a program under title II shall be evaluated for eligibility based on age and economic disadvantage. Specific eligibility criteria for programs under title II, parts A, B, and C are described in this part.

(2) Individuals served under title II shall be residents of the SDA, as determined by local government policy, except for the limited exceptions described in the job training plan, including joint programs operated by SDA's (section 141(e)).

(b) *Eligibility documentation.* (1) In order to promote the uniform and standard application of eligibility criteria for participation in the JTPA program, the Department has issued an Eligibility Documentation TAG that provides guidance on acceptable documentation.

(2) *SDA utilization of eligibility guidance.* When it is determined that the SDA or service provider has followed the guidance contained in the Eligibility Documentation TAG, the Grant Officer will not disallow questioned costs related to the required documentation concerning an individual's eligibility.

**§ 628.510 Intake, referrals and targeting.**

(a) *Collection of personal data.* In addition to determining an applicant's eligibility, the intake process shall include a preliminary review of information relating to whether an applicant is included in one or more of the categories listed in section 203(b) of the Act.

(b) *Information on services.* Upon application, an eligible individual shall be provided information by the SDA or its service providers on the full array

of services available through the SDA and its service providers, including information for women about the opportunities for nontraditional training and employment.

(c) *Assessment during intake.* Some limited assessment activities may be conducted during the intake process in order to determine an eligible applicant's suitability for title II program services. This assessment should be a method, in difficult cases, to finalize determinations for enrollment. The amount of assessment provided during intake is not restricted, however, assessment during intake shall be charged in accordance with § 627.440(d)(3).

(d) *Referral of eligible applicants.* During the intake process, determinations may be made prior to enrollment to refer an eligible applicant to another human service, training or education program deemed more suitable for the individual, including the Job Corps program. In these cases, information on the full array of services available in the SDA may be provided in written form with recommendations and written referrals to other appropriate programs. Copies of or notations of referrals will be maintained as documentation and may be recorded in an incomplete ISS. Further tracking or follow-up of referrals out of title II is not required.

(e) *Referrals from service providers to service delivery areas for additional assessment.* (1) Each service provider shall ensure that an eligible applicant who cannot be served by its particular program shall be referred to the SDA for assessment, as necessary, and suitable referral to other appropriate programs. Each service provider shall also ensure that a participant who cannot be served by its particular program shall be referred to the SDA for further assessment, as necessary, and suitable referral to other appropriate programs, consistent with § 628.515.

(2) Each SDA shall take the appropriate steps (e.g., contract provisions, local administrative issuances, and/or PIC policies) to ensure that its service providers adhere to the provisions of this section and that they maintain documentation of referrals.

(3) Each SDA shall develop an appropriate mechanism to ensure suitability screening for eligible applicants or to apply the provisions of § 628.530 for participants referred by service providers and describe such mechanism in its SDA job training plan.

(f)(1) "*Most in need.*" SDA's that satisfy the requirements of sections 203(b) and 263 (b) and (d) pertaining to hard to serve individuals shall be deemed to meet the "most in need" criteria at section 141(a) of the Act.

(2) The requirements referred to in paragraph (h)(1) of this section shall be calculated on the basis of new participants for whom services or training have been provided subsequent to the objective assessment.

(g) The SDA's method of meeting the requirements of sections 203(b) and 263(b) pertaining to hard to serve individuals shall be implemented consistent with the equal opportunity provisions of 29 CFR part 34.

#### § 628.515 Objective assessment.

(a) *General.* The requirements of this section shall apply to programs conducted under title I (i.e., sections 121 and 123) and title II, parts A, B, and C.

(b) *Definition.* (1) For purposes of this part, an *objective assessment* means an examination of the capabilities, needs, and vocational potential of a participant and is to be used to develop an individual service strategy and employment goal. Such assessment is customer-centered and a diagnostic evaluation of a participant's employment barriers taking into account the participant's family situation, work history, education, basic and occupational skills, interests, aptitudes (including interests and aptitudes for nontraditional occupations), attitude towards work, motivation, behavior patterns affecting employment potential, financial resources and needs, supportive service needs, and personal employment information as it relates to the local labor market.

(2) For the program under title II-B, the objective assessment shall include an examination of the basic skills and supportive service needs of each participant and may include the other areas listed in paragraph (b)(1) of this section

(sections 204(a)(1)(A), 253(c)(1) and 264(b)(1)(A)).

(c) *Methods of objective assessment.* (1) The SDA shall choose the most appropriate means to measure skills, abilities, attitudes, and interests of the participants. The methods used in conducting the objective assessment may include, but are not limited to, structured interviews, paper and pencil tests, performance tests (e.g., skills, and/or work samples, including those that measure interest and capability to train in nontraditional employment), behavioral observations, interest and/or attitude inventories, career guidance instruments, aptitude tests, and basic skills tests.

(2) Instruments used for objective assessment may be developed at the local level; however, any formalized instruments nationally available should be used only for the specific populations for which they are normed.

(d) *Updating of assessments.* Objective assessment should be treated as an ongoing process. As additional relevant information relating to a participant becomes available, it should be reviewed and considered for inclusion in the individual service strategy.

(e) *Other sources of objective assessment.* Other non-JTPA assessments (e.g., through the Job Opportunities and Basic Skills (JOBS) program under title IV of the Social Security Act, or through schools) which have been completed within one year of application for services, and which meet the requirements of this section, may be used to comply with the requirement to assess each participant.

**§ 628.520 Individual service strategy.**

(a) *General.* The requirements of this section shall apply to programs conducted under title I (i.e., sections 121 and 123) and title II, parts A, B and C.

(b) *Definition.* (1) Individual service strategy (ISS) means an individual plan for a participant, which shall include an employment goal (including, for women, consideration of nontraditional employment), appropriate achievement objectives, and the appropriate combination of services for the participant based on the objective assessment conducted pursuant to § 628.515 of this part, Objective assess-

ment. In developing the ISS, the participant shall be counseled regarding required loan repayments if the participant chooses to incur personal indebtedness to participate in an education program. The participant shall also be apprised of the requirements for self-sufficiency and the occupational demands within the labor market.

(2) Decisions concerning appropriate services shall be customer-centered, and ensure that the participant is not excluded from training or career options consistent with the provisions of 29 CFR part 34 concerning non-discrimination and equal opportunity.

(3) For the title II-B program, the ISS may include the components specified in paragraph (b)(1) of this section (sections 204(a)(1)(B), 253(c)(2) and 264(b)(1)(B)). For purposes of titles II-B and II-C, the employment goal may be interpreted broadly and based on long-term career guidance.

(c) *Joint Development of ISS.* The ISS shall be developed in partnership with the participant and reflect the needs indicated by the objective assessment and the expressed interests and desires of the participant. It is not a formal contract and signatures are not a requirement.

(d) *Review of ISS.* The ISS shall be reviewed periodically to evaluate the progress of each participant in meeting the objectives of the service strategy, including an evaluation of the participant's progress in acquiring basic skills, and occupational skills, as appropriate, and the adequacy of the supportive services provided.

(e) *Provision of services.* If JTPA resources are not sufficient to provide the full range of training or supportive services which might be identified in the ISS, the SDA shall make every reasonable effort to arrange for, through other community resources, basic and occupational skills training and supportive services identified as needed in the ISS for participants under titles II-A and II-C and, in addition, preemployment and work maturity skills training and work experience combined with skills training for participants under title II-C (sections 204(a)(1)(D) and 264(b)(1)(D)).

(f) *SDA review of objective assessment and ISS.* (1) The objective assessment

and development of the ISS may be conducted by service providers.

(2) The SDA administrative entity shall ensure that development of the ISS and the services provided, respond to the individual needs of the participant and that the combination of services to the participant is indicated by the results of the objective assessment.

(g) *ISS record of decisions.* The ISS shall be used as the basic instrument for the SDA to record the results of decisions made about the combination and sequence of services for the participant based on the objective assessment. Justification for decisions may be referenced but need not be recorded in the ISS. These decisions shall include, but are not limited to, the employment goal and/or career cluster; referrals to other programs for specified activities; the provision and amount of supportive services; and the delivery agents and schedules for training and supportive services activities. The decisions for time and duration of OJT (§627.240 of this chapter) shall be briefly recorded in the ISS and may not reference other documents.

(h) The ISS is a customer-centered case management tool and shall not be used as a compliance document.

#### § 628.525 Limitations.

Neither eligibility for nor participation in a JTPA program creates an entitlement to services, and nothing in the Act or this part shall be construed to establish a private right of action for a participant to obtain services described in the objective assessment or ISS.

#### § 628.530 Referrals of participants to non-title II programs.

(a) When it is determined, through the objective assessment and the ISS, that a participant would be better served by a program other than one under title II (*e.g.*, Job Corps, Vocational Rehabilitation, State or local education, substance abuse treatment center, and/or dislocated worker programs), the participant shall be referred to the appropriate program. Such referral shall be recorded in the ISS.

(b) In cases where there will be a continuing relationship with a participant,

a referral to another program(s) for specific services will be part of the participant's title II program strategy and will be recorded in the ISS.

(c) When there will not be a continuing relationship with a participant as the result of a referral to a program other than title II, and an assessment but no training component has been provided, the referral should be recorded in a partial ISS and the individual shall not be counted for purposes of calculating performance against the SDA's performance standards. Further tracking or follow-up of referrals out of title II is not required.

#### § 628.535 Limitations on job search assistance.

(a) *General.* Job search assistance is designed to give a participant skills in acquiring full time employment. (See §626.5 of this chapter, Definitions.)

(b) *Conditions.* Job search activities may be conducted only:

(1) For participants when specified as appropriate in the ISS; and

(2) When delivered in conjunction with other training or educational services designed to increase the participant's ability to acquire employment. Additional services which may be provided in conjunction with job search include the direct training services listed in JTPA section 204(b)(1) of the Act, excluding standalone skill assessment, counseling, work experience and case management and the direct training services listed in 264(b) of the Act excluding tutoring, standalone skill assessment, counseling, work experience and case management. (See §627.245 of this chapter, "Work Experience," especially §627.245(d) regarding combination of other services.)

(c) *Exceptions.* (1) Job search assistance activities, including job search skills, training, and job clubs may be provided without the accompanying services specified in paragraph (b) of this section only when:

(i) The objective assessment and the ISS indicate that the additional services are not appropriate; and

(ii) The activities are not available or accessible through other public agencies, including the Employment Service.

(2) The exceptions in paragraph (c)(1) of this section apply to Title II-A and II-B and are not applicable to Title II-C programs (see § 628.804 (d) and (e)).

(d) *Determination of job search availability.* For purposes of this section, a determination of the availability of the job search assistance activity will be made by the SDA, in consultation with the employment service and documented in the local job training plan.

(e) *Older individuals.* For purposes of this section, when an individual aged 55 or older indicates in the assessment a preference for immediate job placement, job search assistance may be provided on a stand-alone basis. The individual's preference shall be recorded in the ISS.

**§ 628.540 Volunteer program.**

Pursuant to sections 204(c)(6) and 264(d)(7) of the Act, the SDA shall make opportunities available for individuals who have successfully participated in programs under this part to volunteer assistance, in the form of mentoring, tutoring, and other activities.

**§ 628.545 Linkages and coordination.**

(a) *General requirements.* (1) To the extent practicable, and as permitted by law and regulations, the Governor shall, at the State level, facilitate coordination among the programs set forth at section 205(a) and 265(b) of the Act, including, but not limited to, the establishment of State-level coordination agreements. The Governor may focus coordination through the SJTCC or the HRIC.

(2) The SDA, in conducting programs under this part, shall establish appropriate linkages and coordination procedures with other Federal programs and appropriate State and local educational, social service, and public housing agencies, including with CBO's, business and labor organizations, volunteer groups and others, such as women and older worker organizations, and with appropriate education and training agencies, such as local JOBS programs, Employment Service offices which provide services for JTPA participants, and the local agencies on aging, to avoid duplication and to enhance the delivery of services,

which shall be described in the SDA job training plan. Where a local agency declines to complete such a linkage with an SDA, the SDA shall reflect this information in its job training plan (section 104(b)).

(b) SDA's are encouraged to facilitate effective "one stop shop career centers" and "single point of contact" delivery systems which may include:

(1) The development of individual service strategy plans and of a common program application; and

(2) A unified job development effort and comprehensive programmatic design (sections 104(b) (3) and (4), 205 (a) and (b) and 265).

(c) *Requirements for youth.* For the youth programs under this part, formal agreements shall be established with appropriate local educational agencies which participate in JTPA programs which, at a minimum, shall specify:

(1) The procedures for referring and serving in-school youth;

(2) The methods of assessment of in-school youth; and

(3) Procedures for notifying the SDA when a youth drops out of the school system.

(d) *Schoolwide projects.* (1) In conducting a schoolwide project for low income individuals under sections 263(g) and 265(d) of the Act, the SDA shall establish a cooperative agreement with the appropriate local educational agency.

(2) In addition to the requirements listed in paragraphs (a) and (b) of this section, the cooperative agreement shall include:

(i) A description of the ways in which the JTPA schoolwide project will supplement the educational program of the school;

(ii) Identification of measurable goals to be achieved by the schoolwide project and a provision for assessing the extent to which such goals are met;

(iii) A description of the ways in which the program will use available JTPA and other education program resources;

(iv) A description of the number of individuals to be served by the schoolwide project; and

(v) Assurances that JTPA resources shall be used in coordination with existing sources of funds to supplement and not supplant them (section 107(b)).

(3) In areas where there is more than one local educational agency, cooperative agreements for schoolwide projects are required only with those local education agencies that will participate in programs under schoolwide projects (section 263(g)).

**§ 628.550 Transfer of funds.**

If described in the job training plan and approved by the Governor:

(a) An amount up to 10 percent of the funds allocated to the SDA under section 202(b) of the Act for title II-A may be transferred to the program under title II-C of the Act;

(b) An amount up to 20 percent of the funds allocated to the SDA under section 252(b) of the Act for title II-B may be transferred to the program under title II-C of the Act; and

(c) An amount up to 10 percent of the funds allocated to the SDA under section 262(b) of the Act for title II-C may be transferred to the program under title II-A of the Act.

**Subpart F—The Adult Program**

**§ 628.600 Scope and purpose.**

This subpart contains the regulations for the Adult Program under part A of Title II of the Act. The regulations in part 627 of this chapter and subpart E of this part apply to the Adult Program to the extent that they do not conflict with the provisions of this subpart.

**§ 628.605 Eligibility.**

(a) *Age and economic disadvantage.* Except as provided in paragraph (b) of this section, an individual shall be eligible to participate under this part only if he or she is economically disadvantaged and 22 years of age or older. There is no maximum age for eligibility.

(b) *Non-economically disadvantaged individuals.* Up to 10 percent of the individuals served under this subpart in each SDA may be individuals who are not economically disadvantaged, if

such individuals face serious barriers to employment in accordance with section 203(c) of the Act.

(c) *Requirement to assist hard-to-serve individuals.* (1) Not less than 65 percent of adults who participate in the program under this subpart, including those who are not economically disadvantaged, shall have one or more of the additional barriers to employment as described in section 203(b) of the Act.

(2) The 65 percent barrier requirement in paragraph (c)(1) of this section shall be calculated on the basis of participants for whom services or training have been provided subsequent to an objective assessment on July 1, 1993 or later.

(d) *Addition of barrier.* An SDA may identify and add one additional serious barrier to employment to the categories listed at section 203(b) of the Act, in accordance with the specific procedures and requirements in section 203(d) of the Act.

(e) *Criteria for older workers under joint programs.* (1) The SDA may establish written financial or non-financial agreements with sponsors of programs under title V of the Older Americans Act to carry out joint programs.

(2) Joint programs under this paragraph (e) may include referrals between programs, co-enrollment and provision of services.

(3) Under agreements entered into pursuant to this paragraph (e), individuals eligible under title V of the Older Americans Act shall be deemed to satisfy the requirements of section 203(a)(2) of the JTPA (Older Americans Act, Pub. L. 102-375, section 510).

**§ 628.610 Authorized services.**

(a) The services that may be provided under this subpart are those described at section 204(b) of the Act.

(b) *Counseling and supportive services.* Counseling and supportive services provided under this subpart may be provided to a participant for a period of up to 1 year after the date on which the participant completes the program.



**Subpart G—The Summer Youth Employment and Training Program**

**§ 628.700 Scope and purpose.**

This subpart contains the regulations for the Summer Youth Employment and Training Program (SYETP) under part B of title II of the Act. The regulations in part 627 of this chapter and subpart E of this part apply to the SYETP to the extent that they do not conflict with the provisions of this subpart.

**§ 628.701 Program goals and objectives.**

(a) Each SDA shall establish written goals and objectives that shall be used in evaluating the effectiveness of its SYETP activities. Such goals and objectives may include enhancement of basic educational skills through improvement in school retention or academic performance (including mathematics and reading comprehension); encouragement of school completion or enrollment in supplementary or alternative school programs; improvement of employability skills, including provision of vocational exploration opportunities and exposure to the world of work; enhancement of youth citizenship skills; and demonstrated coordination with other appropriate community organizations.

(b) Each SDA shall ensure that the activities and services offered under the SYETP are consistent with and will contribute to the achievement of the goals and objectives developed pursuant to paragraph (a) of this section.

**§ 628.702 Eligibility.**

(a) *Age and economic disadvantage.* An individual is eligible to participate in programs funded under title II-B of the Act, if such individual is

(1) Age 14 through 21; and

(2)(i) Economically disadvantaged; or

(ii) Has been determined to meet the eligibility requirements for free meals under the National School Lunch Act during the most recent school year. *Most recent school year* means the current school year unless the eligibility determination is made during an interim period between school terms, in

which case the term means the preceding school year; or

(iii) Is participating in a compensatory education program under Chapter I of title I of the Elementary and Secondary Education Act of 1965; or

(iv) Is participating in a schoolwide project as set forth at section 263(g) of the Act.

(b) *Eligibility determination verification.* The SDA may accept the same documentation utilized by the local educational agency for approving free lunch meals or an assurance by school officials concerning the students' participation in the free school lunch program under the National School Lunch Act.

**§ 628.705 SYETP authorized services.**

(a) The services that may be provided under this subpart are those described at section 253 of the Act.

(b) *Basic and remedial education and preemployment and work maturity skills training.* The SDA shall ensure the availability of basic or remedial education and preemployment and work maturity skills training for SYETP participants pursuant to the assessment process described in § 628.515 of this part from funds available to the SDA or by other education and training programs, including, but not limited to, the Job Corps, the JOBS program, youth corps programs or alternative or secondary schools.

(c) *Work experience.* (1) Work experience shall be conducted consistent with the provisions of § 627.245 of this chapter.

(2) Work experience provided under this subpart, to the extent feasible, shall include contextual learning opportunities which integrate the development of general competencies with the development of academic skills.

(d) *Concurrent enrollment.* (1) Youth being served under the SYETP or the Youth Training Program authorized under title II-C of the Act (see subpart H of this part) are not required to be terminated from participation in one program to enroll in the other. The SDA may enroll such youth concurrently in programs under this subpart and subpart H of this part, pursuant to guidance to be issued by the Secretary,

in order to promote continuity and coordination of services.

(2) The requirement that not less than 65 percent of the total number of title II-C participants shall have one or more barriers to employment pursuant to section 263(c) and (d) of the Act shall apply to youth who are concurrently enrolled and will participate in the program under title II-C.

(e) *Followup services.* (1) The SDA shall make followup services available for participants if the ISS indicates that such services are appropriate (section 253(d)).

(2) Title II-B funds may be used for such followup services for one year after program participation, which may be concurrent with a period of any subsequent participation in the Title II-C program.

(3) Followup services include the full array of supportive services described in section 4(24) of the Act, except for financial assistance, and may include such followup services as counseling, mentoring, or tutoring.

(f) *Classroom training.* Classroom training provided under this subpart shall, to the extent feasible, include opportunities to apply knowledge and skills relating to academic subjects to the world of work.

(g) *Educational linkages.* (1) In conducting the program assisted under this subpart, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants.

(2) Such linkages shall include arrangements to ensure that there is a regular exchange of information relating to the progress, problems and needs of participants, including the results of assessments of the skill levels of participants.

#### § 628.710 Period of program operation.

(a) Except as provided under paragraph (b) of this section, the SYETP shall be conducted during the school vacation period occurring during the summer months.

(b) An SDA operating within the jurisdiction of one or more local educational agencies that operate schools on a year-round full-time basis may offer SYETP activities to participants in such a jurisdiction during the school

vacation period(s) treated as the period(s) equivalent to a school summer vacation.

### Subpart H—Youth Training Program

#### § 628.800 Scope and purpose.

This subpart contains the regulations for the Year-round Youth Program under part C of title II of the Act. The regulations in part 627 of this chapter and subpart E of this part apply to the Year-round Youth program to the extent that they do not conflict with the provisions of this subpart.

#### § 628.803 Eligibility.

(a) *Out-of-school youth.* An out of school youth is a youth who does not meet the definition of in-school youth as set forth in paragraph (b) of this section. An out-of-school youth shall be eligible to participate in programs under this subpart, if such individual is:

- (1) Age 16 through 21, and
- (2) Economically disadvantaged.

(b) *In-school youth. Definition.* In-school youth means a youth who has not yet attained a high school diploma and is attending school full time. An in-school youth shall be eligible to participate in programs under this subpart, if such individual is:

- (1)(i) Age 16 through 21, or
- (ii) If provided in the job training plan, age 14 through 21 inclusive; and
- (2)(i) Economically disadvantaged; or
- (ii) Participating in a compensatory education program under Chapter I of title I of the Elementary and Secondary Education Act of 1965; or

(iii) Has been determined to meet the eligibility requirements for free meals under the National School Lunch Act during the most recent school year. *Most recent school year* means the current school year unless the eligibility determination is made during an interim period between school terms, in which case the term means the preceding school year.

(c) *Eligibility determination verification.* The SDA may accept the same documentation utilized by the local educational agency for approving free lunch meals or an assurance by

school officials concerning the students' participation in the free school lunch program under the National School Lunch Act. The Department shall provide guidance on this verification separate from these regulations.

(d) *Requirement to serve hard-to-serve individuals.* (1) Not less than 65 percent of the in-school youth who participate in the program under this subpart, including those who are not economically disadvantaged, shall have one or more additional barriers to employment, as described in section 263(b) of the Act.

(2)(i) Not less than 65 percent of the out-of-school youth who participate in the program under this subpart, including those who are not economically disadvantaged, shall have one or more barriers to employment, as described in section 263(d) of the Act, in addition to any criterion listed in paragraph (b)(2) of this section.

(ii) All Job Corps participants shall be considered out-of-school and as having a barrier to employment.

(3) The requirement of paragraphs (d)(1) and (2) of this section shall be calculated on the basis of participants for whom services or training have been provided subsequent to the objective assessment on July 1, 1993 or later.

(e) *Addition of barrier.* An SDA may identify and add one additional serious barrier to employment to the categories listed at sections 263(b) and (d) of the Act in accordance with the specific procedures and requirements in section 263(h) of the Act.

(f) *Services to non-economically disadvantaged individuals.* Up to 10 percent of the youth served by an SDA under this subpart may be individuals who are not economically disadvantaged, but such individuals shall face one or more serious barriers to employment in accordance with section 263(e) of the Act.

(g) *Eligibility based on schoolwide project participation.* (1) In addition to the individuals who meet the conditions described in § 628.803 of this part, individuals who are not economically disadvantaged may participate in programs under this subpart if they are enrolled in a schoolwide project pursuant to section 263(g) of the Act.

(2) For purposes of paragraph (g)(1) of this section, the term *school* means an individual building, facility, campus or a portion of the school such as the 11th or 12th grade.

(3) A schoolwide project may be operated in a public school located in an urban census tract or non-metropolitan county with a poverty rate of 30 percent or above, and in which 70 percent or more of the students have at least one barrier to employment. The school shall make the determination on whether its students meet the barrier requirements.

(4) The SDA shall determine which will be its schoolwide projects. Examples of schoolwide projects include, but are not limited to, school-to-work programs; college awareness and application assistance programs; school restructuring to make the schools career academies or magnet schools; mentoring programs; business-education compacts; integration of work and learning; year-round extensions of summer STEP programs; community service programs, including linkages with youth service corps; programs to encourage teen parents to stay in school, including establishing child care centers; and work experience slots provided as incentives to stay in school.

(h)(1) *Out-of-school ratio.* Not less than 50 percent of the total title II-C participants in each SDA shall be out-of-school youth (section 263(f)(1) of the Act). The Governor shall be responsible for determining the period for which the 50 percent requirement will be calculated based either on the period covered by the job training plan or on a program year basis.

(2) For purposes of paragraph (h)(1) of this section, a youth who has attained a high school diploma or an equivalency, is habitually truant, as defined by State law, or is attending an alternative school program may be considered out of school. An alternative school program includes an alternative high school, an alternative course of study approved by the local educational agency, or a high school equivalency program. Such programs may be operated either within or outside of the local public school system,

and can offer either a high school diploma or equivalency.

(3) *Schoolwide project ratios.* Those in-school participants who are served under a schoolwide project shall not be counted in determining the ratio of in-school to out-of-school youth in paragraph (h)(1) of this section.

#### § 628.804 Authorized services.

(a) The SDA and the PIC shall take into consideration exemplary program strategies and services, including those selected for replication pursuant to section 453(c) of the Act concerning capacity building, in the development of services for programs under this subpart.

(b) Except as provided in paragraph (c) of this section, in order to participate in programs under this part an individual who is under the age of 18 and a school dropout, as defined in section 4(38) of the Act, shall enroll in and attend a school, course or program described in section 264(d)(2)(B)(ii) and (iii). An alternative course of study shall be approved by the LEA and may include educational programs provided by community-based organizations.

(c) An individual who is a school dropout, as defined in section 4(38) of the Act, and under the age of 18 may participate in programs under this part without meeting the requirements of paragraph (b) of this section for a limited interim period which may be during the summer months, during periods between school terms, or when a course of study is not immediately available.

(d) The provision of preemployment and work maturity skills training shall be accompanied either by work experience or by other additional services which are designed to increase the basic education or occupational skills of the participant (section 264(d)(3)(A)).

(e) The provision of work experience, job search assistance, job search skills training, and job club activities under programs conducted under this subpart shall be accompanied by other additional services which are designed to increase the basic education or occupational skills of the participant (section 264(d)(3)(B)).

(f) The additional services offered pursuant to paragraphs (d) and (e) of this section may be provided concur-

rently or sequentially with services provided under other education and training programs (e.g., Job Opportunities and Basic Skills programs under title IV of the Social Security Act, Job Corps (see part 638 of this chapter), or schools).

(g) Schoolwide projects for low-income schools shall meet the conditions in sections 263(g)(1) and (2) of the Act.

(h) Entry employment experience is a training activity which may be conducted in public or private agencies. In all cases, this training activity shall increase or develop the long term employability of eligible in-school and out-of-school youth. Entry employment experiences may include, but are not limited to:

(1) Work experience as described in § 627.245 of this chapter; and

(2) Cooperative education programs that coordinate educational programs with work in the private sector. Subsidized wages are not permitted in cooperative education programs.

(i) Limited internships in the private sector under this subpart shall be designed to enhance the long-term employability of youth.

(1) A limited internship shall be conducted pursuant to an agreement with an employer to provide structured on-site private sector exposure to work and the requirements for successful job retention.

(2) A limited internship should be combined with classroom instruction relating to a particular position, occupation, industry or the basic skills and abilities to successfully compete in the local labor market.

(j)(1) On-the-job (OJT) training activities approved under this subpart shall be consistent with the provisions of subpart B of part 627 of this chapter and shall:

(i) Be for positions that pay the participant a wage that equals or exceeds on the average wage at placement based on the most recent available data in the SDA for participants under title II-A;

(ii) Be for positions that have career advancement potential; and

(iii) Include a formal, written program of structured job training that will provide the participant with an orderly combination of instruction in

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work maturity skills, general employment competencies, and occupational specific skills.

(2) In those cases where the OJT participant is a school dropout, the participant shall participate in an education program in accordance with paragraph (b) of this section.

(k) Counseling and supportive services provided under this subpart may be provided to a participant for a period of up to 1 year after the date on which the participant completes the program. These include the full array of supportive services described in section 4(24) of the Act except for financial assistance.

(l) *Year-round operations.* Programs for youth under this subpart shall:

(1) Provide for a year-round education and training program that is coordinated with the appropriate local educational agencies, service providers, and other programs; and

(2) As appropriate, ensure services for youth are available on a multiyear basis, consistent with the determined needs and goals of the youth served.

(3) The year-round program delivery requirement of this paragraph does not prohibit schools on a 9-month operations schedule from providing services for programs under this part.

**PARTS 629–630 [RESERVED]**

**PART 631—PROGRAMS UNDER TITLE III OF THE JOB TRAINING PARTNERSHIP ACT**

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- 631.87 Definitions.

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